

Kumar does not disclose determining whether non-latency-dependent data is appropriate for transmission to a base station over a digital control channel, and if the data is not appropriate for transmission over a digital control channel, transmitting the data over a traffic channel, as required by each of independent claims 1, 3, 7, 9, 13, 15 and 19.

Moreover, Grier is completely silent as to wireless transmission of non-latency dependent data to a base station. Instead, Grier relates to data communications in an ISDN (wired) system. See Fig. 1 of Grier: only wire lines are shown, connecting a local LAN user to a remote LAN user via an ISDN bridge and a telephone company central office. In view of Grier's disclosure being limited to wired, ISDN technology, Grier has clear deficiencies with respect to support for a §103 rejection of the present claims. For instance, there is no disclosure in Grier of "determining whether network conditions are favorable" as required by the present claims. Such a determination can be performed, for example, by monitoring the network to determine whether there is sufficient bandwidth or slots available within a digital control channel for transmission (see, e.g., the present specification at page 5, second paragraph). In Grier, by contrast, the only criteria mentioned for channel selection are a data packet message size limit and a queue size limit. See Fig. 3.

In view of the above, Kumar and Grier cannot support the asserted rejection, and accordingly, withdrawal of the rejection of claims 1-20 as unpatentable over Kumar and Grier is respectfully requested.

In conclusion, the applicant respectfully submits that the present application is in all aspects in allowable condition, and earnestly solicits favorable reconsideration and early issuance of a Notice of Allowance.

The Examiner is invited to contact the undersigned at (202) 220-4323 to discuss any matter concerning this application. The Office is authorized to charge any fees under 37 C.F.R. 1.16 or 1.17 related to this communication to Deposit Account No. 11-0600.

Respectfully submitted,

Dated: 4/23/03

By: 

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